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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,437

05/05/2004

Howard Mark Garon

3436

39225 7590 12/30/2008

MIRUS TECHNOLOGIES, INC.

3819 GLEN EAGLES DRIVE

SILVER SPRING, MD 20906

EXAMINER

NGUYEN, KHAI MINH

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

12/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,437	<b>Applicant(s)</b> GARON, HOWARD MARK	
	<b>Examiner</b> KHAI M. NGUYEN	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C.103(a) as being unpatentable over Zerphy et al. (U.S.Pub-20050156810) in view of Baker, Jr. (U.S.Pat-7058693).

Regarding claim 1, Zerphy teaches a method for the asynchronous and synchronous direct (wired) command and control of multiple and spatially disparate devices (fig.1) via the internet using single or multiple internet servers to facilitate that command and control (fig.5, [0029] item 510 communicates with a remote computer over a network. The network can be any data communications network including a combination of networks including the Internet), wherein the system constituents minimally comprise

at least one command monitor unit ([0029] remote computer) capable of connecting to the internet ([0029] communicates (internet) with a item 510 of controller) a controller interface (item 510) also capable of connecting to the internet ([0029]

Art Unit: 2617

lines 20-25), and

the object or device (fig.1, items 102, 104, ...108) to be commanded and/or monitored ([0028]).

Zerphy fails to specifically disclose at least one internet server.

However, Baker teaches at least one internet server (fig.1, item 14).

Therefore, it would have been obvious to having one ordinary skill in the art at the time the invention was made to apply the teaching of Baker to Zerphy to allow the user to edit programs controlling the operation of the controller system.

Regarding claim 2, Zerphy teaches a method for the asynchronous and synchronous wireless command and control of multiple and spatially disparate devices (fig.1) via the internet using single or multiple internet servers to facilitate that command and control (fig.5, [0029] item 510 communicates with a remote computer over a network. The network can be any data communications network including a combination of networks including the Internet), wherein the system constituents minimally comprise

at least one command monitor unit ([0029] remote computer) capable of connecting to the internet ([0029] communicates (internet) with a item 510 of controller)

a controller interface (item 510) also capable of connecting to the internet ([0029] lines 20-25), and

the object or device (fig.1, items 102, 104, ...108) to be commanded and/or monitored ([0028]).

Zerphy fails to specifically disclose at least one internet server.

However, Baker teaches at least one internet server (fig.1, item 14).

Therefore, it would have been obvious to having one ordinary skill in the art at the time the invention was made to apply the teaching of Baker to Zerphy to allow the user to edit programs controlling the operation of the controller system.

Regarding claim 3, Zerphy teaches a method for optimizing the forward and reverse communications paths, modalities and protocols between internet server and target device (fig.5, [0029] item 510 communicates with a remote computer over a network. The network can be any data communications network including a combination of networks including the Internet, corporate intranets), wherein the system constituents minimally comprise

at least one command monitor unit ([0029] remote computer) capable of connecting to the internet ([0029] communicates (internet) with a item 510 of controller) a controller interface (item 510) also capable of connecting to the internet ([0029] lines 20-25), and

the object or device (fig.1, items 102, 104, ...108) to be commanded and/or monitored ([0028]).

Zerphy fails to specifically disclose at least one internet server.

However, Baker teaches at least one internet server (fig.1, item 14).

Therefore, it would have been obvious to having one ordinary skill in the art at the time the invention was made to apply the teaching of Baker to Zerphy to allow the user to edit programs controlling the operation of the controller system.

Regarding claim 4, Zerphy and Baker further teach a method as in any one of claims 1,2, and 3, in which the command and control (see Zerphy, fig.1) of Dynamic Message Signs (DMS) (see Zerphy, [0010]), Changeable Message Signs (CMS) and Variable Message Signs (VMS), either fixed, portable or mobile may be realized (Baker, item 8).

Regarding claim 5 is rejected with the same reasons set forth in claim 4.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI M. NGUYEN whose telephone number is (571)272-7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571.272.7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/709,437

Page 6

Art Unit: 2617

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617

/Khai M Nguyen/

Examiner, Art Unit 2617

12/12/2008